



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

[REDACTED]

PRELIMINARY RECITALS

Pursuant to a petition filed November 19, 2015, under Wis. Admin. Code, §HA 3.03(1), to review a decision by Brown County Human Services in regard to FoodShare benefits (FS), a hearing was held on December 16, 2015, by telephone.

The issue for determination is whether the county is issuing petitioner sufficient FS.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [REDACTED]
Brown County Human Services
111 N. Jefferson St.
Green Bay, WI 54301

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Brown County.
2. Petitioner receives FS as a one-person household. In November and December, 2015 he received \$15 monthly FS.
3. Petitioner's monthly income is \$1,247 social security. \$130.70 is deducted from that amount for his Medicare Part B premium, and also \$31 is deducted for a payee fee, so he actually receives only \$1,085. He formerly paid \$475 monthly rent, although that went down to \$254 in the summer, 2015 when he became eligible for rent assistance.

DISCUSSION

In determining the amount of FS to be issued each month, the county must budget all of the recipient's nonexempt income. 7 C.F.R. §273.9(b). From that income, certain deductions are allowed. The deductions include a standard deduction, which currently is \$155 per month. 7 C.F.R. §273.9(d)(1); FS Handbook, Appendix 4.6.2. Another deduction is the earned income deduction, which equals 20% of the household's total earned income. 7 C.F.R. §273.9(d)(2); FS Handbook, App. 4.6.3. A third possible deduction is for medical expenses exceeding \$35 in a month for elderly or disabled persons. 7 C.F.R. §273.9(d)(3); FS Handbook, App. 4.6.4. A fourth deduction is for child/dependent care. 7 C.F.R. §273.9(d)(4); FS Handbook, App. 4.6.6. The final deduction is for shelter expenses; the deduction is equal to the excess expense above 50% of net income remaining after other deductions. 7 C.F.R. §273.9(d)(5); FS Handbook, App. 4.6.7.

Petitioner filed this appeal because he did not believe that his FS were sufficient. He noted that he has a number of monthly expenses including car expenses and a payee payment. However, as noted above, only certain items are deducted from income. Petitioner also noted that he does not actually receive \$1,247 monthly, but a lesser amount.

First, I note that the monthly Medicare Part B payment is included in the FS budget. Petitioner's full social security income is included, but then the Part B premium is deducted as a medical expense. Petitioner also received a \$434 shelter deduction and the standard deduction. Petitioner does not have earned income or child care expenses.

With only the standard, medical expense, and shelter deductions, petitioner's net income for FS purposes was \$562. A person with that net income would receive \$25 in FS. See Handbook, App. 8.1.2 for the FS allotment table. From the \$25 the agency deducted an additional \$10 to recover an overpayment issued to petitioner in 2015 (see concurrent hearing decision in case no. FOP-170268).

I note that petitioner's FS for January will increase to \$117 because he provided to the county a number of medical bills that he is responsible for, thus increasing his medical expense deduction. Then the FS likely will decrease again in February because petitioner is becoming eligible for a program that pays his Medicare Part B premiums, meaning that his medical expense deduction will decrease.

I conclude that the county correctly determined petitioner's FS in November and December, 2015 using the correct income and deductions.

CONCLUSIONS OF LAW

The county correctly determined petitioner's FS in November and December, 2015 using the correct income and deductions.


THEREFORE, it is

ORDERED

That the petition for review is hereby dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.



Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

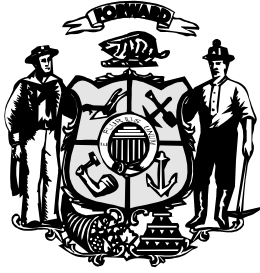
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 18th day of December, 2015

\sBrian C. Schneider
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on December 18, 2015.

Brown County Human Services
Division of Health Care Access and Accountability